

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

ALAMEDA UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015060553

ORDER DETERMINING COMPLAINT
SUFFICIENT

On May 22, 2015 Parent on behalf of Student filed a Due Process Hearing Request¹ (complaint) naming Alameda Unified School District (District).

On June 9, 2015, District filed a Notice of Insufficiency (NOI) as to Student's complaint primarily on the grounds Student failed to allege sufficient facts supporting an exception to the statute of limitations.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint.² The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of Title 20 United States Code section 1415(b)(7)(A).

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education (FAPE) to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time.³ These requirements prevent vague and confusing complaints, and promote fairness by providing the

¹ A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under Title 20 United States Code section 1415(b)(7)(A).

² 20 U.S.C. § 1415(b) & (c).

³ 20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).

named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation.⁴

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.”⁵ The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes.⁶ Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge.⁷

OAH has jurisdiction to hear due process claims arising under the IDEA. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.) Although OAH has granted motions to dismiss allegations that are facially outside of OAH jurisdiction (e.g., civil rights claims, section 504 claims, enforcement of settlement agreements, incorrect parties, etc.,) OAH does not have authority to hear and determine the equivalent of a judgment on the pleadings or motion for summary adjudication prior to giving a petitioner the opportunity to develop a factual record at hearing. In light of the liberal notice pleading standards applicable to IDEA due process hearing requests, as a general matter, sufficiently pleaded due process hearing requests should proceed to hearing.

DISCUSSION

Student’s Complaint alleges he is eight years old, lives with his Parents and attends an elementary school within District boundaries. Student alleges the date of his last “executed” individualized education program was February 25, 2014. The complaint alleges the dates of meetings, identifies specific documents and correspondence by date and the parties involved

⁴ See, H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.

⁵ Sen. Rep. No. 108-185, *supra*, at p. 34.

⁶ *Alexandra R. v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, No. 06-cv-0215-JL) 2009 WL 2957991 at p.3 [nonpub. opn.]; *Escambia County Board of Educ. v. Benton* (S.D.Ala. 2005) 406 F. Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, No. 8:04CV2657T24EAJ) 2005 WL 2850076 at p. 3[nonpub. opn.] ; but cf. *M.S.-G. v. Lenape Regional High School Dist.* (3d Cir. 2009) 306 Fed.Appx. 772, at p. 3[nonpub. opn.].

⁷ Assistance to States for the Education of Children With Disabilities and Preschool Grants for Children With Disabilities, 71 Fed.Reg. 46540-46541, 46699 (Aug. 14, 2006).

and contains a basic description of Student's educational history from May 18, 2011, through the date of filing. While some of the facts alleged occurred outside of the two year statute of limitations in due process cases, Student alleges purported exceptions to the statute of limitations on the grounds Parents were prevented from filing a request for due process due to misrepresentations made by District.

The complaint, in sum, alleges facts and states issues as to violations of the IDEA having to do with records requests, parent participation in educational decision making, failure to assess in all areas of suspected disability, failure to provide a behavior intervention plan and deliver and implement services according to Student's 2014-2015 IEP, and failing to meet District's "child find" obligation.

District's NOI is, essentially, a motion to dismiss or for judgment on the pleadings. OAH does not summarily resolve factual issues based upon a complaint. The facts alleged in Student's complaint are sufficient to put District on notice of the issues forming the basis of the complaint. Student's complaint identifies the issues and sets forth adequate related facts about the problem to permit District to respond to the complaint, participate in mediation and prepare for hearing. The IDEA requires only a "description of the nature of the problem," facts related to the problem and proposed resolutions to the extent known and available at the time (20 U.S.C. (b)(7)(A)(ii)), a requirement liberally construed in light of the remedial and informal nature of the due process proceedings. Therefore, Student's complaint is sufficient.

ORDER

1. The complaint is sufficient under Title 20 United States Code section 1415(b)(7)(A)(ii).
2. All mediation, prehearing conference, and hearing dates in this matter are confirmed.

DATE: June 15, 2015

/s/
MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings